

MAINTENANCE OF EFFORT, COMPARABILITY & SUPPLEMENT NOT SUPPLANT

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May Forum 2010

Cross Cutting Fiscal Requirements

Three Pillars of Mandatory – State Local Effort

- ◆ Maintenance of Effort
- ◆ Comparability
- ◆ Supplement not Supplant



Guidance:

- NEW: “Title I Fiscal Issues,” February 2008
(replaced May 2006)
 - <http://ed.gov/programs/titleiparta/fiscalguid.doc>
- Consolidating funds in schoolwide programs,
MOE, SNS, Comparability, Grantbacks,
Carryover

Maintenance of Effort

Most Directly Affected by Declining
Budgets

MOE: The NCLB Rule

- ◆ The combined fiscal effort per student or the aggregate expenditures of the LEA
- ◆ From state and local funds
- ◆ From preceding year must not be less than 90% of the second preceding year

MOE: Preceding Fiscal Year

- ◆ Need to compare final financial data
- ◆ Compare “immediately” PFY to “second” PFY
- ◆ EX: To receive funds available July 2009, compare 2007-08 school year to 2006-07 school year

MOE: Failure under NCLB

- ◆ SEA must reduce amount of allocation in the exact proportion by which LEA fails to maintain effort below 90%
- ◆ Reduce all applicable NCLB programs, not just Title I



	Aggregate expenditures	Amount per student
SY 06	1,000,000	6,100
SY 07 – must spend 90%	900,000	5,490
07 – Actual amount	850,000	5,200
Shortfall	-50,000	-290
Percent shortfall/ reduction	-5.6%	-5.3%**

MOE: Waiver

- ◆ USDE Secretary may waive if:
 - ◆ Exceptional or uncontrollable circumstances such as natural disaster
 - ◆ OR
 - ◆ Precipitous decline in financial resources of the LEA

ED Waivers

- ◆ To State to Grant to LEAs

MOE: IDEA

- ◆ State and Local
- ◆ Measures Only Expenditures for
 - ◆ Special Education
- ◆ SEA – State Funds
- ◆ LEA – Local or State and Local Combined

MOE: IDEA

- ◆ Compare current year to prior
- ◆ Failure = Reduction is in the amount of failure



MOE: IDEA

- ◆ State
- ◆ USDE Secretary May Waive
- ◆ Similar to NCLB
- ◆ LEA – No Waiver!
 └→ However – LEA Flexibility

MOE: IDEA

- ◆ Flexibility
- ◆ 50% Increase Over Prior Year
- ◆ Treat as Local for MOE Only
- ◆ Funds Remain Federal for Allowability!

MOE: IDEA

Flexibility – IDEA Part B Grant

2008 - 2009	\$1,000,000
2009 - 2010	\$1,800,000
Increase	\$800,000
50%	\$400,000

MOE: IDEA

Flexibility

2009 – 2010 =	\$7,000,000
50% of Increase =	\$400,000
Required Level of MOE =	\$6,600,000

MOE: IDEA

Flexibility

- ◆ \$400,000 Must Be Spent on
 - ◆ ESEA Activities
 - ◆ **Caution** – Reduced by EIS

Complications in calculating expenditures from schoolwide programs

- ◆ Need to calculate state and local expenditures across district
- ◆ Use proportional approach
- ◆ IF 85% of school's budget from state and local sources
- ◆ THEN 85% of expenditures attributable to state and local sources

COMPARABILITY

Legal Authority:

Title I Statute: §1120A(c)

General Rule- §1120A(c)

- ◆ An LEA may receive Title I Part A funds only if it uses state and local funds to provide services in Title I schools that, taken as a whole, are at least comparable to the services provided in non-Title I schools.
- ◆ If all are Title I schools, all must be “substantially comparable.”

Timing Issues

- ◆ Guidance: Must be *annual* determination
- ◆ YET, LEAs must maintain records that are updated at least “biennially” (1120A(c)(3)(B))
- ◆ Review for current year and make adjustments for current year

Written Assurances

- ◆ LEA must file with SEA written assurances of policies for equivalence:
 - ◆ LEA-wide salary schedule
 - ◆ Teachers, administrators, and other staff
 - ◆ Curriculum materials and instructional supplies
- ◆ Must keep records to document implemented and “equivalence achieved”

May also meet through. . .

- ◆ Student/ instructional staff ratios;
- ◆ Student/ instructional staff salary ratios;
- ◆ Expenditures per pupil; or
- ◆ A resource allocation plan based on student characteristics such as poverty, LEP, disability, etc. (i.e., by formula)

How to measure??

Compare:

- ◆ Average of all non-Title I schools to
- ◆ Each Title I school

- ◆ Basis for evaluation:
 - ◆ grade-span by grade-span
 - or
 - ◆ school by school



May divide to large and small schools

Exclusions:

- ◆ Federal Funds
- ◆ Private Funds



Exclusions:

- ◆ Need not include unpredictable changes in students enrollment or personnel assignments that occur after the start of a school year



Exclusions: LEA may exclude state/local funds expended for:

- ◆ Language instruction for LEP students
- ◆ Excess costs of providing services to students with disabilities
- ◆ Supplemental programs that meet the intent and purposes of Title I
- ◆ Staff salary differentials for years of employment

Who is “instructional staff”?

- ◆ Consistent between Title I and non-Title I
- ◆ Teachers (art, music, phys ed), guidance counselors, speech therapists, librarians, social workers, psychologists
- ◆ Paraprofessionals – up to SEA/ LEA
 - ◆ Only if providing instructional support
 - ◆ ED urges NO!

Comparability

- ◆ Where stabilization dollars pay staff under impact aid flexibility **————→** count as state/local

SUPPLEMENT NOT SUPPLANT

Surprisingly Not Greatly Affected by Declining Budgets!

Supplement not Supplant

- ◆ Federal funds must be used to supplement and in no case supplant (federal), state, and local resources

“What would have happened in the absence of the federal funds??”

AUDITORS' TESTS FOR SUPPLANTING

OMB Circular A-133
Compliance Supplement

Auditors presume supplanting occurs if federal funds were used to provide services . . .

- ◆ If required to be made available under other federal, state, or local laws

Auditors presume supplanting occurs if federally funded services were

- ◆ Provided with non-federal funds in prior year

Presumption Rebutted!

- If SEA or LEA demonstrates it would not have provided services if the federal funds were not available
- NO non-federal resources available this year!



What documentation needed?

- ◆ Fiscal or programmatic documentation to confirm that, in the absence of fed funds, would have eliminated staff or other services in question
- ◆ State or local legislative action
- ◆ Budget histories and information



Must show:

- ◆ Actual reduction in state or local funds
- ◆ Decision to eliminate service/position was made without regard to availability of federal funds (including reason decision was made)

Rebuttal Example

- ◆ State supports a reading coach program 2008 -2009
- ◆ State cuts the program from State budget 2009 -2010
- ◆ LEA wants to support Title I reading coach program 2009 - 2010

Rebuttal Example

- ◆ LEA must document
 - a. State cut the program
 - b. LEA does not have uncommitted funds available in operating budget to pick up
 - c. LEA would cut the program unless federal funds picked it up
 - d. The expense is allowable under Title I

Rebuttal Example 2

- ◆ LEA pays a reading coach 2008 - 2009
- ◆ LEA revenue falls and wants to pay coach with Title I

Rebuttal Example

- ◆ LEA must show
 - a. Reduction in Local funds
 - Budgets, etc.
 - b. Decision to cut based on loss of funds
 - Link salary to reduction
 - c. Absent Title I, LEA would have to cut position
 - d. Position is allowable under Title I

Auditors presume supplanting occurs if . . .

- ◆ Title I funds used to provide service to Title I students, and the same service is provided to non-Title I children using non-Title I funds.

Flexibility

Exception: 1120A(d)

- ◆ Exclusion of Funds:
- ◆ SEA or LEA may exclude supplemental state or local funds used for program that meets intents and purposes of Title I Part A
- ◆ EX: Exclude State Comp Ed funds

HOW DOES SUPPLANTING APPLY IN A SCHOOLWIDE PROGRAM?

Supplement not Supplant

- ◆ Statute 1114(a)(2)(B): Title I must supplement the amount of funds that would, in the absence of Title I, be made available from non-federal sources.
 - ◆ E-18 in schoolwide guidance
- ◆ The actual service need not be supplemental.

SNS: NEW!!

- ◆ Guidance: School must receive all the state and local funds it would otherwise need to operate in the absence of Federal funds
- ◆ Includes routine operating expenses such as building maintenance and repairs, landscaping and custodial services

- ◆ Where stabilization dollars used under impact aid flexibility ➡ count as state/local

Stimulus MOE Relief for Programs

- ◆ (d) Maintenance of effort: upon prior approval from the Secretary, a state or LEA that receives funds under this title may treat any portion of such funds *that is used for elementary, secondary, or post secondary education* as nonfederal funds for the purpose of any requirement to maintain fiscal efforts **under any other** program administered by the Secretary.

Fiscal Relief

- ◆ IDEA
 - ◆ ESEA
- } “prior approval”

Automatic if

- ◆ Meets Stabilization MOE
- ◆ % of Rev/ED equal or greater than last FY
- ◆ Additional specific requirements for IDEA

Section 14012, fiscal relief

- ◆ Notwithstanding (d), the level of effort required by a state or local educational agency for the following fiscal year shall not be reduced.

Idaho Waiver

- ◆ ED Waived the Perkins MOE requirement in 2006 for a recession experienced in 2002-2003



Questions?

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